**THE HONOURABLE SRI JUSTICLE J. CHELAMESWAR**
**AND**
**THE HONOURABLE SRI JUSTICE D. APPA RAO**

**W.P. NO.16206 of 2006**

**Dated: 05-01-2007**

Between:-

Smt. Naseem Bhanu

…PETITIONER.

And

Jilani and others

…RESPONDENTS

**THE HONOURABLE SRI JUSTICLE J. CHELAMESWAR**
**AND**
**THE HONOURABLE SRI JUSTICE D. APPA RAO**

**W.P. NO. 16206 of 2006**

**O R D E R** (per Hon'ble Sri Justice D. Appa Rao)

The petitioner, the mother of the alleged detenu Mustak Hussain seeks a writ of Habeas Corpus for production of the detenu.

2) It is alleged that on 24.6.2001 the 1st respondent abducted her eldest son Mustak Hussain aged about 13 years bearing grudge that she did not agree for his marriage with her elder daughter Razia Begum. The respondents 3 and 4 are parents of 1st respondent, 2nd respondent is the brother and respondents 5 and 6 are his relations and respondent No.7 is a practicing advocate. On a report, a case in Crime No.185 of 2001 under Sections 363 and 380 IPC was registered. Later, R-1 surrendered before the Judicial Magistrate of First Class on 5.12.2001 and obtained bail. The 1st respondent with the help of respondents 2 and 6 with the knowledge of respondent 3 to 5 have been keeping her son at an unknown place. Earlier, a writ petition W.P.No.10378 of 2002 was filed seeking a writ of Habeas Corpus. However, it was disposed of on 21.6.2002 with a direction to the Superintendent of Police to depute a responsible officer to search the alleged detenu. When proceedings were initiated, the A.P. State Human Rights Commission passed similar orders directing the police to continue the efforts in tracing the boy. She learnt that the matter was entrusted to CID. However, they also could not trace the detenu.

Recently, she learnt that the whereabouts of the detenu, was known to the 7th respondent an advocate who was appearing for the respondents in the criminal case. Since the vital information is available, she prayed that the respondents be directed to produce the detenu.

3) Seventh respondent filed counter *inter alia* stating that he was an advocate for the 1st respondent and from the information gathered from him and other respondents he came to know that R2 to R6 had full knowledge of the whereabouts of the detenu and advised to settle the disputes amicably. He refused to follow up the case as he did not intend to encourage illegal acts of kidnapping etc. In fact, the husband of the petitioner had also requested him and on that he approached the concerned police officials, but they did not respond to his proposal. He was examined by R8 the Circle Inspector of Police and he told him that he would cooperate with the investigation.

4) Eighth respondent, the Inspector of Police filed counter *inter alia* stating that on the complaint lodged by the petitioner, he registered a case in Crime No.185 of 2001 under Sections 363 and 380 IPC and took-up investigation. While so on 5.12.2001, the 1st respondent surrendered himself before the Judicial Magistrate of First Class, Medchal who in turn remanded him to judicial custody. Later on an application dated 5.12.2001, the learned Magistrate granted police custody of R-1 for a period of four days i.e. from 7.12.2001 to 10.12.2001. Though he was interrogated thoroughly, no useful information was ascertained with regard to the alleged detenu. Later, R-1 was enlarged on bail. He had taken all necessary efforts to trace out the boy, but no useful information was received. Pursuant to the orders in the writ petition W.P.No.10378 of 2002 an officer of Sanath Nagar Police station was deputed to trace out the detenu. The said investigating officer requested the higher officials to transfer the case

to CBCID. However, the Superintendent of Police directed the police to conduct polygraph test on 1st respondent. Accordingly, the Director, Forensic Science Laboratory on 1.2.2003, conducted polygraph test. However, no useful information was received. On the instructions of the Assistant Commissioner of Police dated 30.4.2003 a final report was filed before the concerned Magistrate as "undetected for time being". Later the petitioner approached the A.P. State Human Rights Commission, wherein a direction was made to continue the efforts till the boy is traced. The allegations made against him are all false. Therefore, he prayed for dismissal of the writ petition.

5) Heard the learned counsel for the petitioner and respondents 7 and 8 and the Government pleader representing the learned Advocate General.

6) Evidently, the detenu, a boy aged about 16 years has been missing since 24.6.2001. Earlier, filing a writ petition and a complaint to the A.P.State Human Rights Commission did not yield any result.

7) Though the Superintendent of Police transferred the investigation to various police authorities, they could not trace the boy. It is not known why the Superintendent of Police did not refer the matter to the C.B.C.I.D, when the very investigating officer made such a request.

8) Considering the above circumstances and that the boy is missing for the last six years, we feel the interest of justice will be served if the matter is entrusted to C.B.C.I.D., to trace out the missing boy. Therefore, the respondents police authorities are directed to entrust the matter to C.B.C.I.D.

9) The Writ Petition is closed with the above direction. No costs.

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J. CH ELAMESWAR,J

D. APPA RAO,J

5th January 2007.

BCS